

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Christopher M. SCHMANDT, et al.

Application No.: 09/912,352

Group Art Unit: 2614

Confirmation No.: 5411

Filed: July 26, 2001

Examiner: Gauthier, Gerald

For: Voice-based Message Sorting and Retrieval Method

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed June 9, 2008, having a shortened period for response set to expire on July 9, 2008, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect claims 1-35, 44-48 and 52-63 (indicated as Group I) in the Restriction Requirement dated June 9, 2008.

II. Applicants Traverse the Requirement

Insofar as Group II (claims 36-41 and 49-51) and Group III (claim 64) are concerned, it is believed that claims 36-41, 49-51 and 64 are so closely related to elected claims 1-35, 44-48 and 52-63 that they should remain in the same application. The elected claims 1-35, 44-48 and 52-63 directed to categorizing messages, for example, may be used for presenting newly-arrived messages (claims 36-41 and 49-51) including where an addressee manages the sorting of the messages (claim 64). There have been no references cited to show any necessity for requiring restriction, and in fact, it is believed that the Examiner would find references containing the asserted groups of claims in the same field of technology. Further, the Applicants respectfully submit that evaluation of all claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to the Applicants in having to

protect the additional subject matter recited by the Group II and/or Group III claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

Further, the Examiner classifies claims 31-35 as part of Group I while classifying claim 36 as part of Group II. However, in the Amendment submitted on July 16, 2007, claims 31-35 were amended to depend from claim 36. Thus, it is respectfully submitted that the Restriction Requirement is erroneous.

III. Conclusion

Upon review of references involved in this field of technology, when considering that elected claims 1-35, 44-48 and 52-63, claims 36-41, 49-51 and claim 64 are respectively directed to categorizing, sorting and retrieval of messages, and when all of the other various facts are taken into consideration, it is believed that all of the pending claims should be examined in the subject application.

Respectfully submitted,

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Date: 07/09/2008

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